Page 1 of 2

### EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1012-AIR-E TCEQ ID: RN102824737 CASE NO.: 36093 RESPONDENT NAME: DESTRUCTORS, INC.

ORDER TYPE:					
X_1660 AGREED ORDER	FINDINGS AGREED ORDER	FINDINGS ORDER FOLLOWING SOAH HEARING			
FINDINGS DEFAULT ORDER	_SHUTDOWN ORDER	IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER			
_AMENDED ORDER	_EMERGENCY ORDER				
CASE TYPE:					
_X_AIR	MULTI-MEDIA (check all that apply)	INDUSTRIAL AND HAZARDOUS WASTE			
PUBLIC WATER SUPPLY	PETROLEUM STORAGE TANKS	_OCCUPATIONAL CERTIFICATION			
_WATER QUALITY	SEWAGE SLUDGE	_UNDERGROUND INJECTION CONTROL			
MUNICIPAL SOLID WASTE	RADIOACTIVE WASTE	_DRY CLEANER REGISTRATION			
AGRICULTURE	USED OIL	X WATER RIGHTS			
TYPE OF OPERATION: portable rock crusher  SMALL BUSINESS: _X_Yes No  OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility.					
•	than the ED and the Respondent expressed an in				
CONTACTS AND MAILING LIST:  TCEQ Attorney: Ms. Anna M. Treadwell, Litigation Division, MC 175, (512) 239-0974  Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019  TCEQ Enforcement Coordinator: Ms. Cheryl Thompson, Water Enforcement Section, MC R-4, (817) 588-5886  TCEQ Regional Contact: Mr. Gary Goldman, Waco Regional Office, MC R-9, (254) 761-3008  Respondent: Mr. Matthew Hanna, CEO, Destructors, Inc., P.O. Box 296, Sulphur Springs, Texas 75483  Respondent's Attorney: Mr. Patrick Larkin, Partner, Strasburger & Price. LLP, 901 Main Street, Suite 4400, Dallas, Texas 75202					

RESPONDENT NAME: DESTRUCTORS, INC. Page 2 of 2 DOCKET NO.: 2008-1012-AIR-E

Total Assessed: \$60,000  Complaint: X Routine Enforcement Follow-up Records Review  Dates of Investigation Relating to this Case: April 8, 2008 and June 25, 2008  Dates of NOEs Relating to this Case: June 6, 2008 and July 7, 2008  Background Facts: The EDPRP was filed on January 26, 2009. The Respondent signed an Agreed Order on May 13, 2009.  Current Compliance Status: The Respondent obtained NSR Permit 888291.001 to operate the portable rock crusher.  AIR: Failed to obtain a permit prior to performing rock crushing operations [30 Tex. Advan. Coos § 116.110(a)(1) and Tex. Health & SACETY COOSE § § 382.085(b) and 382.0518(a)].  Total Paid/Due to General Revenue: \$2,250/\$57,750  The Respondent spaid \$2,250 of the administrative penalty. The remaining amount of \$57,750 shall be payable in 35 monthly payments of \$1,650 each.  Site Compliance History Classification: High X Average Poor Major Source: Yes X No  Applicable Penalty Policy: September 2002	VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Complaint X Routine Enforcement Follow-up Records Review  Dates of Investigation Relating to this Case: April 8, 2008 and June 25, 2008  Dates of NOEs Relating to this Case: June 6, 2008 and July 7, 2008  Background Facts: The EDPRP was filed on January 26, 2009. The Respondent signed an Agreed Order on May 13, 2009.  Current Compliance Status: The Respondent obtained NSR Permit 85829L001 to operate the portable rock crusher.  AIR: Failed to obtain a permit prior to performing rock sturishing operations [30 Tex. ADMIN. CODE \$ 116.110(a)(1) and Tex. HEALTH & SAFETY  Total Deferred: \$0 Expedited Order Financial Inability to Pay Sep Conditional Offset  Total Paid/Due to General Revenue: \$2,250/\$57,750  The Respondent paid \$2,250 of the administrative penalty. The remaining amount of \$57,750 shall be payable in 35 monthly payments of \$1,650 each.  Site Compliance History Classification: High X Average Poor Major Source: Yes X No  Applicable Penalty Policy: September 2002	Type of Investigation:	Total Assessed: \$60,000	
April 8, 2008 and June 25, 2008  Dates of NOEs Relating to this Case: June 6, 2008 and July 7, 2008  Background Facts: The EDPRP was filed on January 26, 2009. The Respondent signed an Agreed Order on May 13, 2009.  Current Compliance Status: The Respondent obtained NSR Permit 85829L001 to operate the portable rock crusher.  AIR: Failed to obtain a permit prior to performing rock crushing operations [30 Tex. ADMIN. CODE § 116.110(a)(1) and Tex. HEALTH & SAFETY  \$2,250/\$57,750  The Respondent paid \$2,250 of the administrative penalty. The remaining amount of \$57,750 shall be payable in 35 monthly payments of \$1,650 each.  Site Compliance History Classification: High X Average Poor  Major Source: Yes X No  Applicable Penalty Policy: September 2002	X Routine Enforcement Follow-up	Expedited Order Financial Inability to Pay	a portable rock crusher on December 18, 2008.
June 6, 2008 and July 7, 2008  Background Facts: The EDPRP was filed on January 26, 2009. The Respondent signed an Agreed Order on May 13, 2009.  Current Compliance Status: The Respondent obtained NSR Permit 85829L001 to operate the portable rock crusher.  AIR: Failed to obtain a permit prior to performing rock crushing operations [30 Tex. Admin. Code § 116.110(a)(1) and Tex. Health & SAFETY  penalty. The remaining amount of \$57,750 shall be payable in 35 monthly payments of \$1,650 each.  Site Compliance History Classification:  High X Average Poor  Major Source: Yes X No  Applicable Penalty Policy: September 2002	Dates of Investigation Relating to this Case: April 8, 2008 and June 25, 2008		
2009.  Current Compliance Status:  The Respondent obtained NSR Permit 85829L001 to operate the portable rock crusher.  AIR:  Failed to obtain a permit prior to performing rock crushing operations [30 Tex. ADMIN. CODE § 116.110(a)(1) and Tex. Health & Safety  Site Compliance History Classification: High _X_AveragePoor  Major Source:Yes _X_No  Applicable Penalty Policy: September 2002	June 6, 2008 and July 7, 2008  Background Facts: The EDPRP was filed on January 26, 2009. The	penalty. The remaining amount of \$57,750 shall be payable in 35 monthly payments of \$1,650	·
The Respondent obtained NSR Permit 85829L001 to operate the portable rock crusher.  High X Average Poor  Major Source: Yes X No  AIR:  Failed to obtain a permit prior to performing rock crushing operations [30 Tex. ADMIN. CODE § 116.110(a)(1) and Tex. Health & Safety			
AIR: Failed to obtain a permit prior to performing rock crushing operations [30 Tex. ADMIN. CODE § 116.110(a)(1) and Tex. Health & Safety	The Respondent obtained NSR Permit		
Failed to obtain a permit prior to performing rock crushing operations [30 Tex. ADMIN. CODE § 116.110(a)(1) and Tex. HEALTH & SAFETY		•	
	Failed to obtain a permit prior to performing rock crushing operations [30 Tex. ADMIN. CODE § 116.110(a)(1) and Tex. HEALTH & SAFETY	Applicable Penalty Policy: September 2002	
		·	
		·	

#### Penalty Calculation Worksheet (PCW) Policy Revision 2 (September 2002) PCW Revision June 12, 2008 Assigned 8-Sep-2008 Screening 17-Sep-2008 **EPA Due** PCW 25-Sep-2008 RESPONDENT/FACILITY INFORMATION Respondent Destructors, Inc. Reg. Ent. Ref. No. RN102824737 Major/Minor Source Minor Facility/Site Region 9-Waco CASE INFORMATION No. of Violations 1 Enf./Case ID No. 36093 Docket No. 2008-1012-AIR-E Order Type 1660 Government/Non-Profit No Media Program(s) Air Enf. Coordinator Cheryl Thompson Multi-Media EC's Team Enforcement Team 3 \$10,000 Maximum Admin. Penalty \$ Limit Minimum Penalty Calculation Section \$60,000 TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 ADJUSTMENTS (+/-) TO SUBTOTAL 1 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage \$0 Subtotals 2, 3, & 7 Compliance History 0.0% Enhancement No previous Compliance History. Notes 0.0% Enhancement \$0 Subtotal 4 Culpability No The Respondent does not meet the culpability criteria. Notes \$0 Subtotal 5 Good Faith Effort to Comply Total Adjustments \$0 Subtotal 6 0.0% Enhancement\* **Economic Benefit** \*Capped at the Total EB \$ Amount Total EB Amounts \$246 Approx. Cost of Compliance \$4,000 \$60,000 **SUM OF SUBTOTALS 1-7** Final Subtotal 0.0% \$0 OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment Reduces or enhances the Final Subtotal by the indicated percentage Notes Final Penalty Amount \$60,000

STATUTORY LIMIT ADJUSTMENT

Notes

**PAYABLE PENALTY** 

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

No deferral is offered because a mandatory statutory penalty amount is

being assessed.

**DEFERRAL** 

\$60,000

\$60,000

\$0

Final Assessed Penalty

Reduction

0.0%

Adjustment

Screening Date 17-Sep-2008

Docket No. 2008-1012-AIR-E

PCW

Policy Revision 2 (September 2002)
PCW Revision June 12, 2008

 $\textbf{Respondent} \ \ \textbf{Destructors, Inc.}$ 

Case ID No. 36093

Reg. Ent. Reference No. RN102824737

Media [Statute] Air

Enf. Coordinator Cheryl Thompson

Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)  Other written NOVs  Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)  Orders  Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission  Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting orteria)  Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting orteria)  Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government (number of counts)  Onchronic excessive emissions events (number of events)  Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)  Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)  Please Enter Yes or No  Other  Environmental management systems in place for one year or more  No 0% voluntary on-site compliance assessments conducted by the executive director under a special assistance program  Participation in a voluntary pollution reduction program  Environmental requirements  Adjustment Percentage (Subtotal 2 audits for which violations were disclosed)  No Adjustment Percentage (Subtotal 3 Adjustment Percentage (Subtotal 7 Adjustment Percentage (Subtotal 7 Adjustment Percentage	NOVs			
Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)  Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission  Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government, or any final prohibitory of this state or the federal government (number of judgments or consent decrees meeting of this state or the federal government (number of judgments or consent decrees meeting Judgments or consent decrees without a denial of liability, of this state or the federal government (number of counts)  Convictions Any criminal convictions of this state or the federal government (number of counts)  Convictions Chronic excessive emissions events (number of events)  Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)  Environmental management systems in place for one year or more  Voluntary on-site compliance assessments conducted by the executive director under a special assistance program  Participation in a voluntary pollution reduction program  Early compliance with, or offer of a product that meets future state or federal government  No  Adjustment Percentage (Subtotal 2 evertical experiments)  Adjustment Percentage (Subtotal 3 evertical experiments)			0	0%
Orders Order Orders Ord			0	0%
of liability, or default orders of this state or the federal government, or any final prohibitory  amergency orders issued by the commission  Any non-adjudicated final court judgments or consent decrees containing a denial of liability or this state or the federal government (number of judgments or consent decrees meeting of this state or the federal government (number of judgments or consent decrees meeting of this state or the federal government (number of judgments or consent decrees meeting of this state or the federal government (number of judgments or consent decrees without a denial of liability, of this state or the federal government Octions Any criminal convictions of this state or the federal government (number of counts)  Convictions Any diplicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government (number of counts)  Convictions Any criminal convictions of this state or the federal government (number of counts)  Chronic excessive emissions events (number of events)  Chronic excessive emissions events (number of events)  Chronic excessive emissions events (number of events)  Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)  Please Enter Yes or No  Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)  Please Enter Yes or No  Please Enter Yes or No  Office Privingmental management systems in place for one year or more  No  Office Privingmental management systems in place for one year or more  No  Office Privingmental management systems in place for one year or more  No  Office Privingmental management systems in place for one year or more  No  Office Privingmental management systems in place for one year or more  No  Office Privingmental management systems in place for one year or	,		0.0	0%
Judgments and Consent Decrees    Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal judgments or consent decrees without a denial of liability, of this state or the federal judgments or consent decrees without a denial of liability, of this state or the federal judgments or consent decrees without a denial of liability, of this state or the federal judgments or consent decrees without a denial of liability, of this state or the federal judgments or the federal judgments or the federal judgments or consent decrees without a denial of liability, of this state or the federal judgments or the federal judgment or the federal judgments or	Orders	of liability, or default orders of this state or the federal government, or any final prohibitory	0	0%
Decrees Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government  Convictions Any criminal convictions of this state or the federal government (number of counts)  Chronic excessive emissions events (number of events)  Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)  Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)  Please Enter Yes or No  Chter  Chter  Chter  Chter  Adjustment Percentage (Subtotal 3)  No  Adjustment Percentage (Subtotal 3)  Adjustment Percentage (Subtotal 7)  Adjustment Percentage (Subtotal 7)  Adjustment Percentage (Subtotal 7)		of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
Emissions   Chronic excessive emissions events (number of events)   0   0%		Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0 · · · · · · · · · · · · · · · · · · ·	
Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)  Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)  Please Enter Yes or No  Environmental management systems in place for one year or more  Voluntary on-site compliance assessments conducted by the executive director under a special assistance program  Participation in a voluntary pollution reduction program  Participation in a voluntary pollution reduction program  Early compliance with, or offer of a product that meets future state or federal government No 0%  Adjustment Percentage (Subtotal 2)  No Adjustment Percentage (Subtotal 3)  Mompliance History Person Classification (Subtotal 7)  Average Performer  Adjustment Percentage (Subtotal 7)	Convictions	Any criminal convictions of this state or the federal government (number of counts)		
Audits Audits  Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)  Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)  Please Enter Yes or No  Please Enter Yes or No  Other  Environmental management systems in place for one year or more  No 0%  Voluntary on-site compliance assessments conducted by the executive director under a special assistance program  Participation in a voluntary pollution reduction program  Participation in a voluntary pollution reduction program  Participation in a voluntary pollution reduction program  No 0%  Early compliance with, or offer of a product that meets future state or federal government environmental requirements  Adjustment Percentage (Subtotal 2 audits for which violation in a voluntary pollution reduction program  No Adjustment Percentage (Subtotal 3 audits for which violations were disclosed)  Adjustment Percentage (Subtotal 3 audits for which violations were disclosed)  Adjustment Percentage (Subtotal 3 audits for which violations were disclosed)  Adjustment Percentage (Subtotal 3 audits for which violations were disclosed)  Adjustment Percentage (Subtotal 3 audits for which violations were disclosed)  Adjustment Percentage (Subtotal 3 audits for which violations were disclosed)  Adjustment Percentage (Subtotal 3 audits for which violations were disclosed)  Adjustment Percentage (Subtotal 3 audits for which violations were disclosed)  Adjustment Percentage (Subtotal 3 audits for which violations were disclosed)  Adjustment Percentage (Subtotal 3 audits for which violations were disclosed)  Adjustment Percentage (Subtotal 3 audits for which violations were disclosed)  Adjustment Percentage (Subtotal 3 audits for which violations were disclosed and for whi	Emissions		0	0%
Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)  Please Enter Yes or No  Environmental management systems in place for one year or more  No  Other  Other  Other  Activity compliance assessments conducted by the executive director under a special assistance program  Participation in a voluntary pollution reduction program  Participation in a voluntary pollution reduction program  Early compliance with, or offer of a product that meets future state or federal government environmental requirements  Adjustment Percentage (Subtotal 2)  No  Adjustment Percentage (Subtotal 3)  Adjustment Percentage (Subtotal 3)  Adjustment Percentage (Subtotal 3)  Adjustment Percentage (Subtotal 3)  Adjustment Percentage (Subtotal 7)	Audite	Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of	0	0%
Environmental management systems in place for one year or more  No 0%  Voluntary on-site compliance assessments conducted by the executive director under a special assistance program  Participation in a voluntary pollution reduction program  Early compliance with, or offer of a product that meets future state or federal government environmental requirements  Adjustment Percentage (Subtotal 2)  No Adjustment Percentage (Subtotal 3)  Mo Adjustment Percentage (Subtotal 3)	7 duno	Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)		0%
Other Participation in a voluntary pollution reduction program Participation in a voluntary pollution reduction program No 0% Early compliance with, or offer of a product that meets future state or federal government environmental requirements  Adjustment Percentage (Subtotal 2)  No Adjustment Percentage (Subtotal 3)  Molliance History Person Classification (Subtotal 7)  Average Performer  Adjustment Percentage (Subtotal 7)		Plea	se Enter Yes or No	
Other		Environmental management systems in place for one year or more	No	0%
Participation in a voluntary pollution reduction program  Early compliance with, or offer of a product that meets future state or federal government environmental requirements  Adjustment Percentage (Subtotal 2 peat Violator (Subtotal 3)  No  No  Adjustment Percentage (Subtotal 3 and percentage (Subtotal 3 and peat Violator (Subtotal	Othor		No	0%
Early compliance with, or offer of a product that meets future state or federal government  **Red Report Percentage (Subtotal 2 peat Violator (Subtotal 3)**  **No**  **No**  **Adjustment Percentage (Subtotal 3 peat Violator (Subtotal 3)**  **No**  **No**  **No**  **Adjustment Percentage (Subtotal 3 peat Violator)**  **Adjustment Percentage (Subtotal 7 percentage (Subtotal 7 peat Violator)**  **Adjustment Percentage (Subtotal 7 percentage (Subtotal 7 peat Violator)**  **Adjustment Percentage (Subtotal 7 peace)**  **Adjustme	Other	Participation in a voluntary pollution reduction program	No	0%
peat Violator (Subtotal 3)  No  Adjustment Percentage (Subtotal 3)  mpliance History Person Classification (Subtotal 7)  Average Performer  Adjustment Percentage (Subtotal 7)		Early compliance with, or offer of a product that meets future state or federal government	No	0%
No Adjustment Percentage (Subtotal 3 mpliance History Person Classification (Subtotal 7)  Average Performer Adjustment Percentage (Subtotal 7)	Sout Violator (S	the state of the s	Percentage (Su	ıbtotal 2
mpliance History Person Classification (Subtotal 7)  Average Performer  Adjustment Percentage (Subtotal 7)			Parcantaga (Si	ibtotal 3
Average Performer Adjustment Percentage (Subtotal 7	, <u>L., N</u>	Adjustment P	Croemaye (St	ibiotai 3,
	npliance Histo	y Person Classification (Subtotal 7)		
mpliance History Summary	Average	Performer Adjustment F	Percentage (Su	ıbtotal 7,
TO PROTECT OF THE CONTROL OF THE CON	noliance Histo	ry Summary		
	an • per minera di Tari Tari Tari	The state of the s		

Total Adjustment Percentage (Subtotals 2, 3, & 7)

Screening Date	7-Sep-2008 Docket No. 2008-1012-AIR-E	PCW
Respondent		Policy Revision 2 (September 2002)
Case ID No.		PCW Revision June 12, 2008
Reg. Ent. Reference No. Media [Statute]		
Enf. Coordinator		
Violation Number	1	
Rule Cite(s)	30 Tex. Admin. Code § 116.110(a)(1) and Tex. Health & Safety Code §§ 382.08 382.0518(a)	35(b) and
Violation Description	Failed to obtain a permit prior to performing rock crushing activities. Specifica Respondent was operating rock crusher Terex Pegson Rock Crusher Model 141 No. 140211) on July 4, 2008 and July 8, 2008 and February 9, 2008, March 14 March 28, 2008 and April 9, 2008) at a quarry located at 478 Limestone Count 374.	12 (Serial   4, 2008,
	Bas	e Penalty \$10,000
>> Environmental, Property an	l Human Health Matrix Harm	
Release	Major Moderate Minor	
OR Actual Potential	Percent 0%	
>>Programmatic Matrix		5
Falsification	Major         Moderate         Minor           X         Percent         100%	
Matrix Notes The Respond 7.052 (b), a	ent failed to comply with 100% of the rule requirement; however, per Tex. Water rock crusher plant operating without a permit is penalized \$10,000 for each day continuing violation occurs.	that a
	Adjustment	\$0
Dir Of Control (2019) Automotive and a supplication of the control		\$10,000
		Control of the Control of the Control of
Violation Events		200 CHE COLOR
Number of Vi	lation Events 6 6 Number of violation day	rs .
	daily x	
mark only one	monthly Violation Bas	se Penalty \$60,000
with an x	semiannual	
	annual arrangement	
	single event	
Six daily eve	nts (one event for each day of operation) are recommended for rock crusher Ser	rial No.
	140211.	
Good Faith Efforts to Comply	0.0% Reduction	\$0
er en en grann 2300 vormannen menner vormannen i sekt tillet konstituten av ennersett en en met det tillet konstituten i sekt tillet en	Before NOV NOV to EDPRP/Settlement Offer Extraordinary	
	Ordinary	
	N/A X (mark with x)	
	Notes The Respondent does not meet the good faith criteria for this	
	violation.	
	Violation	n Subtotal \$60,000
Economic Benefit (EB) for this	And the property of the proper	
Estimate	EB Amount \$246 Violation Final Per	nalty Total \$60,000
	This violation Final Assessed Penalty (adjusted	for limits) \$60,000

		conomic l	Benefit W	orks	heet		
Respondent	Destructors, Inc	util in old switchel Mess the L	sala - 1990 Abbas Villadi Massi	i kasifa is	all totales a walked a differ to his fill ta	National of the Park	norten passe o to ten
Case ID No.		•					
Reg. Ent. Reference No.							
Media Media	1						Years of
Violation No.						Percent Interest	Depreciation
violation ino.			TO SET TO BATERITE	ana a	MARKETE PROPERTY	5.0	15
			Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
돌아가 아이들이 말을 받는 것이 되었다. 물건 있다는 어디를 보고 있는 것이다.	Item Cost	Date Required	rinai Date	118	interest Saveu	Oneume Costs	EB Amount
item Description	No commas or \$			Table 1. A. A.			
and the second s	Mar geres e ograpava, a tes	ng grandenga kalendarika. Ng grandenga kalendarika	osystementsumm	COSTI E	eranne e e en		TILLETTER TOTAL
Delayed Costs		A STATE STREET, A STATE OF	a z pjesta police i	1 0.00 1	\$0	<b>S</b> 0	\$0
Equipment				0.00	\$0	\$0	\$0
Buildings Other (as needed)				0.00	\$0 \$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a x * · · · ·	\$0
Training/Sampling			<del></del>	0.00	\$0	is a minimum n/a see see	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$4,000	8-Jul-2008	30-Sep-2009	1.23	\$246	n/a	\$246
Other (as needed)	Estimated cost	to obtain a permit.		0.00	\$0	n/a	\$0
Notes for DELAYED costs			Date required is final date is the pr	the first d	\$0 late a rock crush late of complianc	er was documented one.	\$0 operating. The
, ,			Date required is final date is the pr	the first d ojected d	\$0 late a rock crusholate of compliance	er was documented e. one-time avoided c	\$0 operating. The
Notes for DELAYED costs			Date required is final date is the pr	the first d	\$0 late a rock crushdate of compliance tem (except for	er was documented e.e.  one-time avoided c	\$0 operating. The osts)
Notes for DELAYED costs  AVOIDED COSTS Disposal Personnel			Date required is final date is the pr	the first drojected dentering in 0.00	\$0 late a rock crush late of complianc  tem (except for  \$0  \$0	er was documented e.e.  one-time avoided c  \$0  \$0  \$0	\$0 operating. The osts) \$0 \$0
Notes for DELAYED costs  AVOIDED COSTS  Disposal  Personnel  Inspection/Reporting/Sampling			Date required is final date is the pr	the first drojected dentering in 0.00 0.00 0.00	\$0 late a rock crusholate of compliance tem (except for \$0 \$0 \$0	er was documented be.  one-time avoided c \$0 \$0 \$0	\$0 operating. The osts) \$0 \$0 \$0 \$0
Notes for DELAYED costs  AVOIDED COSTS Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment			Date required is final date is the pr	0.00 the first drojected d	\$0 late a rock crusholate of compliance tem (except for \$0 \$0 \$0 \$0 \$0 \$0	er was documented be.  one-time avoided c  \$0  \$0  \$0  \$0  \$0	\$0 operating. The sosts) \$0 \$0 \$0 \$0 \$0 \$0
Notes for DELAYED costs  Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]			Date required is final date is the pr	0.00 the first d rojected d rojec	\$0 late a rock crusholate of compliance tem (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	er was documented be.  one-time avoided c  \$0  \$0  \$0  \$0  \$0  \$0  \$0  \$0  \$0  \$	\$0 operating. The sosts) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Notes for DELAYED costs  Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]			Date required is final date is the pr	the first dooperted dooper	\$0 late a rock crusholate of compliance tem (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	er was documented be.  one-time avoided column so	\$0 operating. The sosts) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Notes for DELAYED costs  Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]			Date required is final date is the pr	0.00 the first d rojected d rojec	\$0 late a rock crusholate of compliance tem (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	er was documented be.  one-time avoided c  \$0  \$0  \$0  \$0  \$0  \$0  \$0  \$0  \$0  \$	\$0 operating. The sosts) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Notes for DELAYED costs  AVOIDED COSTS  Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]			Date required is final date is the pr	the first dooperted dooper	\$0 late a rock crusholate of compliance tem (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	er was documented be.  one-time avoided column so	\$0 operating. The sosts) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)			Date required is final date is the pr	the first dooperted dooper	\$0 late a rock crusholate of compliance tem (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	er was documented be.  one-time avoided column so	\$0 operating. The sosts) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0

# **Compliance History Report**

949753F

85829L001

49753

CN602838294 Classification: AVERAGE Rating: 3.05 Destructors, Inc. Customer/Respondent/Owner-Operator: Site Rating: 3.01 Regulated Entity: RN102824737 PORTABLE ROCK Classification: **AVERAGE BY CRUSHING FACILITY 1** ID Number(s): ACCOUNT NUMBER AIR NEW SOURCE PERMITS REGISTRATION AIR NEW SOURCE PERMITS **PERMIT** AIR NEW SOURCE PERMITS **PORTABLE** Location: 478 LCR 374 **REGION 09 - WACO** TCEQ Region: December 09, 2008 Date Compliance History Prepared: Agency Decision Requiring Compliance History: Enforcement Compliance Period: June 21, 2003 to June 21, 2008 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History Phone: (817) 588-5886 Name: Cheryl Thompson **Site Compliance History Components** 1. Has the site been in existence and/or operation for the full five year compliance period? Yes 2. Has there been a (known) change in ownership of the site during the compliance period? Yes Destructors, Inc. 3. If Yes, who is the current owner? 4. if Yes, who was/were the prior owner(s)? BARR, DOUGLAS L 5. When did the change(s) in ownership occur? 10/02/2007 Rating Date: 9/1/2008 Repeat Violator: NO Components (Multimedia) for the Site: Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government. N/A Any criminal convictions of the state of Texas and the federal government. B. Chronic excessive emissions events. C. The approval dates of investigations. (CCEDS Inv. Track. No.) D. 06/05/2008 (656452)E. Written notices of violations (NOV). (CCEDS Inv. Track. No.) N/A Environmental audits. Type of environmental management systems (EMSs). G. Voluntary on-site compliance assessment dates. H.

Sites Outside of Texas N/A

Early compliance. N/A

Participation in a voluntary pollution reduction program.

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
DESTRUCTORS, INC.;	§ §	
RN102824737	§	ENVIRONMENTAL QUALITY

### AGREED ORDER DOCKET NO. 2008-1012-AIR-E

### I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the Destructors, Inc. ("Destructors") under the authority of Tex. Water Code ch. 7 and Tex. Health & Safety Code ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Destructors, represented by Patrick Larkin of the law firm of Strasburger & Price LLC, appear before the Commission and together stipulate that:

- 1. Destructors owns and operates a portable rock crusher located at 478 Limestone County Road 374, Groesbeck, Limestone County, Texas (the "Plant").
- 2. This Agreed Order is entered into pursuant to Tex. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to Tex. WATER CODE § 5.013 because it alleges violations of Tex. Health & Safety Code ch. 382 and TCEQ rules.
- 3. The Commission and Destructors agree that the Commission has jurisdiction to enter this Agreed Order, and that Destructors is subject to the Commission's jurisdiction.
- 4. Destructors received notice of the violations alleged in Section II ("Allegations") on or about June 11, 2008.
- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Destructors of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

- 6. An administrative penalty in the amount of sixty thousand dollars (\$60,000.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Destructors paid two thousand two hundred fifty dollars (\$2,250.00) of the administrative The remaining amount of fifty-seven thousand seven hundred fifty dollars (\$57,750.00) of the administrative penalty shall be payable in 35 monthly payments of one thousand six hundred fifty dollars (\$1,650.00) each, pursuant to 30 Tex. ADMIN. CODE § 70.9(a). The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Destructors fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Destructors's failure to meet the payment schedule of this Agreed Order constitutes the failure by Destructors to timely and satisfactorily comply with all of the terms of this Agreed Order.
- 7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
- 8. The Executive Director of the TCEQ and Destructors agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
- 9. The Executive Director recognizes that on December 18, 2008, Destructors obtained authorization under New Source Review Permit No. 85829L001 to operate a portable rock crusher at the Plant.
- 10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Destructors has not complied with one or more of the terms or conditions in this Agreed Order.
- 11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

#### II. ALLEGATIONS

During the investigations conducted on April 8, 2008 and June 25, 2008, a TCEQ Waco Regional Office investigator documented that Destructors violated 30 Tex. ADMIN. CODE § 116.110(a)(1), Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b) by failing to obtain a permit prior to performing rock crushing activities. Specifically, the rock crusher operated for six days without the required authorization. The rock crusher operated on January 4, 2008; January 8, 2008, February 9, 2008; March 14, 2008; March 28, 2008 and April 9, 2008.

#### III. DENIALS

Destructors generally denies each allegation in Section II ("Allegations").

#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Destructors pay an administrative penalty as set forth in Section I, Paragraph 6, above. The payment of this administrative penalty and Destructors's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Destructors, Inc., Docket No. 2008-1012-AIR-E" to:

Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. The provisions of this Agreed Order shall apply to and be binding upon Destructors.
- 3. If Destructors fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Destructors's failure to comply is not a violation of this Agreed Order. Destructors shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Destructors shall notify the Executive Director within seven days after Destructors becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

Destructors, Inc. TCEQ Docket No. 2008-1012-AIR-E Page 4

- 4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Destructors shall be made in writing to the Executive Director. Extensions are not effective until Destructors receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
- 5. This Agreed Order, issued by the Commission, shall not be admissible against Destructors in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- 6. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
- 7. Under 30 Tex. ADMIN. Code § 70.10(b) and Tex. Gov't Code § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Destructors, or three days after the date on which the Commission mails notice of the Order to Destructors, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Destructors, Inc. TCEQ Docket No. 2008-1012-AIR-E Page 5

### SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Authorized representative of Destructors, Inc.

For the Commission	•
Chargronlerdu	8/10/2009
For the Executive Director	Date
I, the undersigned, have read and understand the authorized to agree to the attached Agreed Order signature, and I do agree to the terms and conditions TCEQ, in accepting payment for the penalty amount	r on behalf of the entity, indicated below my specified therein. I further acknowledge that the
I also understand that my failure to comply with the	•
<ul> <li>failure to timely pay the penalty amount, may resul</li> <li>A negative impact on Destructors's complia</li> </ul>	
• Greater scrutiny of any permit applications	•
<ul> <li>Referral of this case to the Attorney Geradditional penalties, and/or attorney fees, or</li> </ul>	neral's office for contempt, injunctive relief,
<ul> <li>Increased penalties in any future enforceme</li> </ul>	- · · · · · · · · · · · · · · · · · · ·
•	Office of any future enforcement actions against
Destructors; and  TCEQ seeking other relief as authorized by	law
In addition, I understand that any falsification of an	y compliance documents may result in criminal
prosecution.	5/13/09
Signature	Date
MATTHEW HANDA	CEO
Name (Printed or typed)	Title